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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,187	09/17/2003	Donald L. McCammon	03-5800	8795

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EXAMINER
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DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/666,187

Applicant(s)

MCCAMMON, DONALD L.

Examiner

Lorna M. Douyon

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-12 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Priority***

1. A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e) or 120. See 37 CFR 1.78(a).

***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it is not limited to a single paragraph. Correction is required. See MPEP § 608.01(b).

***Claim Objections***

4. Claims 1-3 are objected to because of the following informalities: in these claims, reference to "petroleum solvent" is not consistent. Claim 1 refers to "petroleum solvent", and claims 2 and 3 refer to "liquid petroleum solvent". It is suggested that same terms be used for consistency. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. Claims 6-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 is indefinite in the recital of "...process for making a hand cream paint remover composition in accordance with claim 5" in lines 1-2 because there is no reference to a hand cream paint remover composition in claim 5. It is suggested that this claim recites "...process for making a chemical composition in accordance with ..." to be consistent with claims 1-5. In addition, in line 7, reference is made to "nonionic surfactant", however, this surfactant is not consistent with the "ionic surfactant" in claim 3. Finally, reference to "liquid petroleum" in line 3 should be consistent with the term used in claims 1-3.

Claim 7 is indefinite because this claim is a composition claim, yet it recites "composition...comprising the steps of" in lines 1-3. It is suggested that "the steps of" in line 3 be deleted. In addition, in lines 6-7, it is not clear why the phrase "at room temperature" is necessary.

Claim 8 is indefinite because "800 parts by volume of microcrystalline wax" in line 5 is outside the scope of "90 to 700 parts by volume of microcrystalline wax" in claim 7 to which this claim is ultimately dependent upon.

Claim 9 should properly depend from claim 7, not claim 8. In addition, reference to "liquid petroleum" in lines 2-3 should be consistent with the term used in claim 7 (i.e., "petroleum solvent") to which this claim is ultimately dependent upon. Or, Applicant may refer to "liquid petroleum solvent" provided this phrase is consistent to all the claims.

Art Unit: 1751

Claim 12 is indefinite in the recital of “nonionic surfactant” in line 6 because this surfactant is not consistent with the “ionic surfactant” in claim 9.

Claims 10 and 11, being ultimately dependent upon claim 7, are rejected as well.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Laura et al. (US Patent No. 4,718,942), hereinafter "Laura".

Laura teaches a corrosion-inhibiting coating composition comprising 25 parts mineral spirits, 10 parts paraffinic oil and 10 parts microcrystalline wax in a total of 99 parts composition (see Example F in col. 13, lines 45-56). Even though Laura does not teach the use of the composition in removing paint, grease and oil from a person's hand, the two different intended uses are not distinguishable in terms of the composition, see *In re Thuau*, 57 USPQ 324; *Ex parte Douros*, 163 USPQ 667; and *In re Craige*, 89 USPQ 393.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1751

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Osberghaus et al. (US Patent No. 4,810,291), hereinafter "Osberghaus".

Osberghaus teaches a floor care preparation comprising the following composition, based on the weight of the composition: from 2 to 15% by weight paraffin, from 0.2 to 15% by weight microcrystalline wax and the balance to 100% by weight apolar aprotic solvent (see col. 2, lines 23-34) such as low-aromatic white spirit wherein the ingredients of the composition are heated and mixed (see col. 4, lines 39-61). Osberghaus, however, fails to disclose the order of addition of the paraffin wax, microcrystalline wax and solvent in the manner as those recited in claim 1, the proportions of the ingredients as those recited, and the use of the composition for removing paint, grease and oil from a person's hand.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to mix the paraffin and solvent first before adding the microcrystalline wax because changing the order of steps is within the level of ordinary skill in the art, see *Ex parte Rubin*, 128 USPQ 159. In addition, it would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the proportions of the paraffin wax, microcrystalline wax and solvent through routine experimentation for best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch*, 617 F.2d

Art Unit: 1751

272, 276, 205 USPQ 215, 219 (CCPA 1980). See also *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). Even though Osberghaus does not teach the use of the composition in removing paint, grease and oil from a person's hand, the two different intended uses are not distinguishable in terms of the composition, see *In re Thuau*, 57 USPQ 324; *Ex parte Douros*, 163 USPQ 667; and *In re Craige*, 89 USPQ 393.

10. Claims 1-3, 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wollner (US Patent No. 5,962,074, hereinafter "Wollner").

Wollner teaches a wax composition for imparting durable, high-luster finishes to painted surfaces (see col. 1, lines 5-7), which comprises a wax component and a copolymer (see abstract). The wax component includes paraffin waxes, microcrystalline waxes, carnauba waxes and montan waxes (see col. 12, lines 36-64) and is present in the range from about 11 to 42 parts by weight wax component based on 100 parts wax composition (see col. 14, lines 3-12). The wax composition can also contain a solvent like mineral spirits and the preferred amounts have been found to be in the range from about 40 to 80 parts by weight solvent based on 100 parts by weight of the wax composition (see col. 14, lines 29-38). The wax composition may also contain other ingredients such as surfactants (see col. 14, lines 48-53), which presumably is present in minor amounts. The above ingredients can be combined to produce the wax composition by well known methods and in general, the solvent component is heated to a temperature sufficient to melt the wax component, the wax component is then dispensed into the solvent and the remaining ingredients can then be mixed (see col. 15, lines 4-18). In the Example (Sample 1),

Art Unit: 1751

Wollner teaches a paste wax composition comprising 33.5 wt% odorless mineral spirits, 33.5 wt% isoparaffinic hydrocarbon, 6.7 wt% montan wax and 11.3 wt% modified carnauba wax (see Table 1 under col. 16). Wollner, however, fails to disclose a paste wax composition comprising a solvent like odorless mineral spirit, isoparaffinic hydrocarbons and microcrystalline wax.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to prepare a paste wax composition comprising a solvent like odorless mineral spirit, isoparaffinic hydrocarbons, as in Sample 1 and substitute the montan and carnauba wax with microcrystalline wax because Wollner teaches microcrystalline wax as one selection of wax component which can be useful for the composition.

***Allowable Subject Matter***

11. Claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 6, 10-12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art of record teaches, discloses or suggests a process for making a chemical composition or a chemical composition comprising all the ingredients in their respective proportions, in particular, the incorporation of aloe oil and eucalyptus oil into the composition.




*Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered cumulative to or less material than those discussed above.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Lorna M. Douyon  
Primary Examiner  
Art Unit 1751